Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Truth-in-Billing	)	CC Docket 98-170
and	)	
Billing Format	)	

THE UNITED STATES TELEPHONE ASSOCIATION'S
OPPOSITION TO
MCI WORLDCOM'S PETITION FOR RECONSIDERATION AND CLARIFICATION

On behalf of its local exchange carrier (LECs) members, the United States Telephone Association (USTA), through counsel, respectfully submits its comments to the Federal Communications Commission (FCC or Commission) in opposition to certain statements made by MCI Worldcom in its "Petition for Reconsideration and Clarification". USTA files this matter pursuant to the Commission's relevant rules and its public notice inviting public comment on the various petitions for reconsideration (PFRs) and clarification concerning the Commission's Truth-in-Billing and Billing Format (TIB) rulemaking proceeding.[1]

USTA believes it is necessary to respond to what it considers incendiary and unfounded statements made by MCI WorldCom regarding ILEC billing and collection matters. In particular, MCI at 7-8 of its pleading mis-states that:

[1] *See In re Truth-in-Billing and Billing* Format (CC Docket No. 98-170), FCC Public Notice, "Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding" (Rpt. No. 2355; Aug. 20, 1999)(regarding the petitions filed separately by the following parties AT&T Corp.; the United States Telephone Association; SBC Communications Inc.; MCI Worldcom, Inc.; the National Telephone Cooperative Association; and U S West Communications, Inc.).

> The relationship of MCI WorldCom and the ILECs is a contractual one; however, due to lack of competitive billing alternatives, the ILECs can, and do, dictate much of the formatting of customer bills. In fact, the absence of other competitive alternatives, and the inability of large ILECs to present a credible threat of direct remit billing, render ILEC billing and collection contracts more like contracts of adhesion than a negotiated contract one might expect in a commercial environment. . . Given the overwhelming control that ILECs have over billing, the Commission should clarify that the carrier who provides service can define invoice messaging and labeling, and the carrier who is sending a bill on a contractual basis cannot interfere with messaging or labeling that is otherwise lawful. Carriers should not be found liable for certain billing arrangements that are not under their control as long as they have made, and can demonstrate that they have made, a good faith effort to comply. Carriers should not be found liable where the billing entity has seized control of invoice labeling and messaging.

Id. (Emphasis added, citation omitted.)

USTA believes that this is another instance in which MCI is merely crying wolf and trying to deflect problems it has in working with the other segments of the industry in resolving consumer issues that the company may largely have created.[2] For example, ILECs did not create the problem of long-distance carrier slamming. To the degree that the FCC adopted the TIB Order in order to address the evils of IXC slamming, USTA believes it is necessary for the FCC to consider MCI WorldCom's statements about billing and collection in the context of any

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[2]In the TIB Order the FCC said it had authority to exercise jurisdiction over Interexchange Carriers (IXCs) by virtue of Section 258 of the Telecommunications Act of 1996, which pertains to "slamming." TIB First Report and Order and Further Notice of Proposed Rulemaking, released on May 11, 1999 in CC Docket No. 98-170 (TIB Order) TIB Order at ¶¶ 21-23. In comments filed by MCI in this proceeding concerning various petitions for waiver or stay, MCI exceeds the subject matter of that proceeding by taking the opportunity to tout its Third Party Administrator proposal it made in the slamming docket along with other IXCs as being the most efficient way to mitigate unauthorized conversions. *See* MCI WorldCom Comments (Sept. 3, 1999) at 11. Yet, according to a Dow Jones Newswire dated August 20, 1999, the caption reads "DJ MCI WorldCom Led Its League In FCC Slamming Complaints". Thus, for MCI WorldCom to cast a shadow on LEC billing and collection practices in this matter should be viewed with plenty of skepticism in terms of whether it is merely trying to impede regulatory efforts to thwart slamming.

alleged attempts by the company to impede its alleged efforts to slam consumers.

In addition to telecommunications services, LECs are in business to provide billing and collection services. Billing and Collection (B&C) LECs are not required to perform third-party billing, nor should they be required to do so. And, like any business, there are practical constraints. Formatting and character limitations are billing system realities which LECs are forced to address and must apply business judgement. This is not anti-competitive venom, but merely a business reality. In that regard, some B&C LECs may have to decline an IXC's business if it can not accommodate the spacing requirements of the IXC seeking to comport with the TIB Order. LECs, especially small and mid-size LECs, do not relish the prospect of having to decline such business on the basis of character limitations and formatting constraints. However, this may be a reality for which the FCC should not otherwise force B&C LECs to have to accommodate. Billing and collection is a deregulated service. It is not a communications service, nor does it warrant any regulatory intervention by the FCC in this or other proceedings before the Commission.

The Commission aptly recognized in 1985 that "detariffing [billing and collection] will enhance competition in the billing and collection market by giving the LECs flexibility in structuring and pricing their offerings." *In re Detariffing of Billing Collection Services*, CC Docket No. 86-31, Report and Order (adopted, Jan. 14, 1985; released Jan. 29, 1986)(Detariffing Order).

LEC provision of billing and collection for others during the period since the Commission detariffed billing and collection has become a competitive business, which was the reason the Commission detariffed it in the first place. Therefore, it is inaccurate and ludicrous

for MCI WorldCom to contend that it is grossly disadvantaged competitively in that it is trapped by the ILECs for billing services. If MCI has felt that it has been so mistreated, MCI WorldCom has had over thirteen years in which to make alternative billing arrangements, including processing its own billing. ILECs therefore can negotiate with others to provide billing and collection services by mutual and contractual agreement. So for MCI WorldCom to claim to be a victim of this market-based, competitive system is suspect, especially because a company the size of MCI WorldCom commands savvy arm's-length negotiation's presence.

Further, MCI has in fact taken billing back from ILECs in a multitude of areas where there are large business customers and otherwise left such high-cost billing for low volume residential billing to the ILECs, but then cries about the cost of this type of billing.

USTA urges the FCC to ignore MCI WorldCom's attempts to throw a wrench in the Commission's efforts to thwart slamming by complaining that ILEC billing and collection needs to be addressed by the Commission. Instead, the FCC should recognize MCI WorldCom's attempts to merely distract the Commission in this regard and should simply dismiss these groundless protestations.

USTA urges the Commission to continue to honor its well founded Detariffing Order decision. Therein, the FCC found that "carrier billing or collection for the offering of another unaffiliated carrier is not a communications for purposes of Title of the Communications Act." 102 F.C.C. 2d 1150, 1168. The FCC further stated that "[i]n short, billing and collection is a financial and administrative service." *Id.* Additionally, the Commission found that billing and collection was not subject to regulation under Title II of the Act. *Id.* at 1169. While the Detariffing Order assumes the Commission can exercise ancillary jurisdiction under Title I over

billing and collection services provided by LECs to IXCs, the FCC opined in the Detariffing Order that its exercise of ancillary jurisdiction over billing and collection requires a record finding that such regulation would be directed at protecting or promoting a statutory purpose. *Id.* at 1169-1170. Given the Commission's intent to address interstate and intrastate slamming in the TIB Order, it should not attempt to exercise its ancillary jurisdiction over billing and collection in this proceeding to reach that issue. Again, LECs have not been the ones promoting such IXC slamming, nor should billing and collection be targeted to address the issue by penalizing LECs. This would be inappropriate use of ancillary jurisdiction to reach such a matter.

Moreover, there is no record evidence that MCI has suffered any harm by virtue of ILEC billing and collection in this matter, nor that re-regulating the service is warranted on other basis. Therefore, USTA recommends the status-quo, market-based approach to the billing and collection market. Consequently, the FCC should dismiss MCI WorldCom's attempts to prompt re-regulation of billing and collection in this proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Nicole Shackelford, do certify that on September 14, 1999, Opposition to MCI WorldCom's Petition for Reconsideration and Clarification of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.

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